

CITY OF SAN JOSE
Community Facilities District No. 11
(Adeline - Mary Helen)

COMMUNITY FACILITIES DISTRICT REPORT

June 3, 2005

Prepared by
City of San José
Department of Public Works
Transportation and Development Services Division
Special Districts

Katy Allen
Director of Public Works

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EXHIBITS

- Exhibit A - Description of the Proposed Services
- Exhibit B - Cost Estimate
- Exhibit C - Rate and Method of Apportionment of Special Taxes
- Exhibit D - Proposed Boundaries Map

INTRODUCTION

WHEREAS, the City of San José (the “City”) utilizes Community Facilities Districts (the “District”) to finance various public services not currently available in an area or that are above and beyond what the City normally provides to the general public.

WHEREAS, Districts are established pursuant to the San José City Charter and Chapter 14.27 of the San José Municipal Code, which incorporates and modifies the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5, commencing at Section 53311, of the California Government Code.

WHEREAS, the City relies on its charter city powers to expand the list of improvements and services that can be funded through a District.

WHEREAS, Tract No. 9354 is currently in the development process. Many of the lots within the Tract are beyond the reach of City standard gravity feed storm and sanitary sewer systems. These lots require, on a transitional basis, the construction, operation and maintenance of storm and sanitary sewer pump stations until further development makes City standard services available to these lots.

WHEREAS, a condition of the development requires the formation of a Special District to fund the operation and maintenance the pump stations until a gravity replacement becomes available.

WHEREAS, on March 29, 2005, this Council adopted a resolution entitled “A Resolution of the City Council of the City of San José of Intention to Establish a Community Facilities District and to Authorize the Levy of Special Taxes Therein” (the “Resolution of Intention”).

WHEREAS, in the Resolution of Intention, the Council expressly ordered the preparation of a written Community Facilities District Report (the “Report”), for the proposed District.

WHEREAS, the Resolution of Intention ordering the Report did direct that the Report generally contain the following:

1. A description of the Services by type, which will be required to adequately meet the needs of the District; and
2. An estimate of the fair and reasonable cost of the Services, including incidental expenses in connected with Said Services.

WHEREAS, the Resolution of Intention set a public hearing on June 7, 2005 on the establishment of the District.

WHEREAS, the ballot measure for consideration is “Shall the City of San José (the “City”) be authorized to impose and levy annually, a special tax within Community Facilities District No. 11 (Adeline – Mary Helen) (the “District”), commencing in the City’s fiscal year 2005-2006, upon lands within the District boundaries, to pay for the authorized services, costs and expenses as defined in the Community Facilities District Report; and shall the annual appropriations limit of the District be established in the amount of \$52,500, with annual percentage adjustments not to exceed the percent change in the average annual CPI*?” * The CPI is the Consumer Price Index for the San Francisco-Oakland-San Jose area as calculated by the U.S. Department of Labor.

COMMUNITY FACILITIES DISTRICT NO. 11

Community Facilities District No. 11 (Adeline – Mary Helen) (the “CFD”) is intended to be temporary due to the nature of the improvements. Pump stations are required at this time to provide temporary storm and sanitary sewer services to specific lots not serviceable by gravity feed systems. As further development occurs and gravity feed systems are brought within reach of these lots, the pump stations will be removed, gravity connections made, and the CFD will be disbanded. A Notice of Cessation of Special Tax will then be recorded removing the Special Tax obligation.

The CFD is structured to accommodate the inclusion of additional lots if future conditions warrant. In the event that additional lots are proposed to develop adjacent to Tract 9354 atop Communications Hill that will be dependent upon the pump stations for storm and sanitary sewer service and the capacity of the pumps permits, the City, at the request of the developer/property owner, will take appropriate action to annex those lots into the CFD.

DESCRIPTION OF PROPOSED SERVICES

The CFD will be responsible for the maintenance and operation of numerous public improvements. The services provided will include the necessary servicing, repairs, replacements, equipment, supplies, water fuel, power, electric current, care supervision and any and all other items necessary for the safe and proper maintenance and operation thereof. A general description of the proposed services are shown in Exhibit “A” attached hereto and hereby made a part hereof.

COST ESTIMATE

The estimated costs of the services within this report to be provided by the district are reflected in year 2005 dollars. Regardless of the actual maintenance costs in future years, the

special taxes levied within the CFD will never exceed the maximum rates identified in the Rate and Method of Apportionment of Special Taxes, unless approved by the qualified electors within the district during that time. The estimated cost of services for the CFD is set forth in Exhibit “B” attached hereto and hereby made a part hereof.

RATE AND METHOD OF APPORTIONMENT OF SPECIAL TAXES

A special tax will be levied annually to pay for the services provided through the district, and will be secured by a continuing lien against all nonexempt real property in the district. The rate and method of apportionment of special taxes for the CFD is set forth in Exhibit “C” attached hereto and hereby made a part hereof.

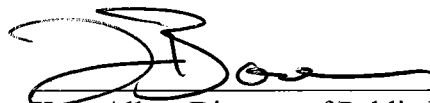
PROPOSED BOUNDARIES OF THE COMMUNITY FACILITIES DISTRICT

The proposed boundaries of the CFD are those properties and parcels in which special taxes may be levied to pay for the costs and expenses of the Services. The proposed boundaries of the CFD are generally described as Altino Boulevard on the north, Senhorinha Street on the east, Adeline Avenue on the south, and Donnici Street on the west, as shown on the map of the CFD set forth in Exhibit “D” attached hereto and hereby made a part hereof. The original boundary map is on file with the Santa Clara County Recorder’s Office.

NOW, THEREFORE, I, the Director of Public Works do hereby submit the report to be filed with the City Clerk to fulfill the state requirements of forming a District and to provide guidance on the operation of the district.

Dated as of

6/6/05



Katy Allen, Director of Public Works
City of San José

Exhibit A**DESCRIPTION OF PROPOSED SERVICES**

The services proposed to be financed by Community Facilities District No. 11 (Adeline - Mary Helen) (the “CFD”) of the City of San José will provide for the maintenance of storm and sanitary sewer pump stations, including any appurtenances related to the operation of the pump stations and storm water detention pond. Maintenance of the improvements may include but will not be limited to necessary repairs, replacements, equipment, supplies, water, fuel, power, electricity, supervision and all other items needed for the safe and proper maintenance of items set forth below. This list identifies those improvements that are authorized for maintenance by the CFD; however, not all items on this list are guaranteed to be funded by the district.

Items authorized to be maintained:

- Sanitary sewer pump station
- Storm water pump station
- Storm water detention pond
- Electrical pedestal and generator that support the storm and sanitary sewer pump stations
- Force mains
- Storm and sanitary sewer mains
- Weed abatement around the pump station facilities and detention pond
- Litter and graffiti removal at pump station facilities and retaining wall
- Retaining wall
- Landscaping and irrigation
- Fencing and gates
- Drainage ditches
- Site lighting

Exhibit B**COST ESTIMATE**

The following table summarizes the estimated annual cost that will be financed by the parcels within the boundaries of the district. These costs are 2005 dollars and may be increased in future years.

ITEM	COST
MAINTENANCE, PARTS, AND REPAIRS:	\$26,000.00
Debris Basin	
Access Road, Fencing, and Gates	
Pump Stations and Appurtenances	
Force Mains	
Wet Wells	
Generator	
Electrical Pedestal and Housing	
Site Lighting	
UTILITIES:	\$12,000.00
Pump Stations and Appurtenances	
Landscaping and Irrigation	
Site Lighting	
LANDSCAPE:	\$2,500.00
Landscaping and Irrigation	
Weed Abatement	
Litter and Graffiti Removal	
Ditches	
CONTRACT ADMINISTRATION	\$12,000.00
Total Annual Cost (2005 \$)	\$52,500.00

Exhibit C**RATE AND METHOD OF APPORTIONMENT**

A Services Special Tax shall be levied on all Taxable Parcels within Community Facilities District No. 11 (Adeline - Mary Helen) (the “CFD”), and collected according to the Rate and Method of Apportionment of Special Taxes described herein.

A. DEFINITIONS

The terms hereinafter set forth have the following meanings:

“**Acre or Acreage**” means the land area of an Assessor’s Parcel as shown on an Assessor’s Parcel Map, or if the land area is not shown on an Assessor’s Parcel Map, the land area shown on the applicable final subdivision map or other parcel map recorded at the Santa Clara County Recorder’s Office.

“**Act**” means, collectively, the Mello-Roos Community Facilities Act of 1982, as amended, Chapter 2.5 of Part 1 of Division 2 of Title 5 commencing at Section 53311 of the California Government Code, and Chapter 14.27 of Title 14 of the Municipal Code of the City.

“**Administrator**” means the individual(s) designated by the City to administer the CFD in accordance with the authority and powers granted by the City Council.

“**Airspace Parcel**” means an Assessor’s Parcel that shares common vertical space of an underlying land parcel with other parcels that have been assigned Assessor’s Parcel numbers.

“**Assessor’s Parcel**” or “**Parcel**” means a lot, parcel or Airspace Parcel shown on an Assessor’s Parcel Map with an assigned Assessor’s Parcel number.

“**Assessor’s Parcel Map**” means an official map of the County Assessor of the County of Santa Clara designating parcels by Assessor’s Parcel number.

“**City**” means the City of San Jose.

“**City Council**” means the City Council of the City of San Jose, acting as the legislative body of the CFD.

“**Developed Property**” means, in any Fiscal Year, all Taxable Property for which a building permit for new construction has been issued prior to June 30 of the preceding Fiscal Year.

“Electors” means the qualified voters, who are either the registered voters residing within the CFD (when there are at least 6) or the landowners within the CFD.

“Fiscal Year” means the period starting July 1 and ending on the following June 30.

“Final Map” means a final map, or portion thereof, approved by the Director of Public Works pursuant to the Subdivision Map Act (California Government Code Section 66410 et seq.) and Chapter 19.16 of the San Jose Municipal Code.

“Index” means the Consumer Price Index of the San Francisco-Oakland-San Jose area for all urban consumers.

“Maximum Special Tax” means the maximum Special Tax, determined in accordance with Section B below that can be levied on Taxable Property in any Fiscal Year.

“Non-Residential Property” means Parcels of Developed Property within the CFD that are not Residential Property.

“Public Agency” means the federal government, State of California or other local governments or public agencies.

“Residential Property” means Parcels of Developed Property for which a building permit was issued for construction of a residential structure, including single family detached, duplex, triplex, fourplex, townhome, condominium or apartment units.

“Special Tax” means a special tax levied in any Fiscal Year to pay the Special Tax Requirement.

“Special Tax Requirement” means the amount necessary in any Fiscal Year to (i) pay authorized maintenance expenses, (ii) create a sinking fund for replacement of facilities, (iii) pay administrative expenses of the CFD, (iv) cure delinquencies in the payment of Special Taxes levied in prior Fiscal Years or (based on delinquencies in the payment of Special Taxes which have already taken place) are expected to occur in the Fiscal Year in which the tax will be collected.

“Subsequent Non-Residential Property” means (i) a Parcel of Non-Residential Property which had, in any prior Fiscal Year, been taxed as Residential Property, or (ii) a Parcel that was, in the City’s sole discretion, expected to be Residential Property and subsequently had a building permit issued for a non-residential use. Notwithstanding the foregoing, if the City determines that, in conjunction with a particular Parcel being changed from a residential to a non-residential designation, there was a corresponding transfer of the residential land uses to another Parcel in the CFD, the City may but is not required to categorize that Parcel as Subsequent Non-Residential Property.

“Taxable Property” means all Assessors’ Parcels within the boundaries of the CFD that are not exempt from the Special Tax pursuant to law or Section E below.

“Unit” means a residential dwelling unit, including individual single-family detached, duplex (2 units), triplex (3 units), fourplex (4 units), townhome, condominium, or apartment units.

B. MAXIMUM SPECIAL TAX

The Maximum Special Tax for Residential Property in the CFD is \$625 per Unit for Fiscal Year 2005-06. Beginning January 2, 2006 and each January 2 thereafter, this Maximum Special Tax shall be adjusted by applying the average annual change in the Index that has occurred since the prior year. Each annual adjustment of the Maximum Special Tax shall become effective on the subsequent July 1.

C. CALCULATION OF THE SPECIAL TAX

Each Fiscal Year, the Special Tax shall be levied on Units receiving Special Storm and Sanitary Sewer Services as follows:

- Step 1: Determine the Special Tax Requirement (see definition in Section A above) for the Fiscal Year in which the Special Tax will be collected;
- Step 2: Calculate the total Special Tax revenues that could be collected from Units of Developed Property receiving Special Storm and Sanitary Sewer Services within the CFD based on application of the Maximum Special Tax rates determined pursuant to Section B above;
- Step 3: If the amount determined in Step 1 is greater than the amount calculated in Step 2, levy the Maximum Special Tax on each Unit on Developed Property receiving Special Storm and Sanitary Sewer Services pursuant to section B above. Even though the Special Tax Requirement is greater than the total Special Tax revenues that can be collected in the CFD, only the Maximum Special Tax may be collected unless a higher Maximum Special Tax is approved by two-thirds of the Electors voting in an election to increase the Maximum Special Tax.

If the amount determined in Step 1 is equal to the amount calculated in Step 2, levy the Maximum Special Tax on Units receiving Special Storm and Sanitary Sewer Services pursuant to section B above.

If the amount determined in Step 1 is less than the amount calculated in Step 2, levy the Special Tax against Units receiving Special Storm and Sanitary Sewer Services in equal percentages up to 100% of the Maximum Special Tax for each Parcel until

the amount of the Special Tax levy equals the Special Tax Requirement for that Fiscal Year.

D. COLLECTION OF THE SPECIAL TAX

The Special Tax for the CFD shall be collected in the same manner and at the same time as ordinary ad valorem property taxes, provided, however, that the CFD may (under the authority provided in the Act), in any particular case, bill the taxes directly to the property owner off the County tax roll, and the Special Taxes will be equally subject to penalties and foreclosure if delinquent.

E. LIMITATIONS

Notwithstanding any other provision of this Rate and Method of Apportionment of Special Tax, no Special Tax shall be levied on land that has been conveyed to a Public Agency, except as otherwise provided in Sections 53317.3 and 53317.5 of the Mello-Roos Community Facilities Acts of 1982. If a Parcel had been taxed in any prior Fiscal Year as Residential Property and becomes Subsequent Non-Residential Property, the City has the discretion to levy a Special Tax against such Parcel if the Special Tax revenues generated from the Parcel are needed to meet the Special Tax Requirement.

F. INTERPRETATION OF SPECIAL TAX FORMULA

The City reserves the right to make minor administrative and technical changes to this document that do not materially affect the rate and method of apportioning Special Taxes. In addition, the information and application of any section of this document shall be left to the City's discretion. Interpretations may be made by the City by ordinance or resolution for purposes of clarifying any vagueness or ambiguity in this Rate and Method of Apportionment.

Exhibit D

